

Approved 5/7/08

**TOWN OF CUSHING
PLANNING BOARD
Minutes of Meeting
April 2, 2008**

Board Present: Chairman Dan Remian, David Cobey, Bob Ellis, Evelyn Kalloch, Frank Muddle, CEO Scott Bickford and Recording Secretary Deborah Sealey

Absent: None

1.Call to Order: Chairman Remian called the meeting to order at 6:05 P.M. A roll call was taken and a quorum declared. Mrs. Kalloch reminded the chairman that the first order of business should be to elect PB officers.

2.Election of Officers

ACTION: Mr. Muddle made a motion, seconded by Mr. Cobey, to nominate Dan Remian to continue as Chair.
Carried 5-0-0

ACTION: Mr. Ellis made a motion, seconded by Mr. Remian, to nominate Frank Muddle as Chair.
Mr. Muddle declined and the motion was withdrawn.

ACTION: Mr. Ellis made a motion, seconded by Mr. Remian, to nominate Frank Muddle as Vice-Chair.
Carried 5-0-0

ACTION: Mr. Remian made a motion, seconded by Mr. Muddle, to nominate Evelyn Kalloch to continue as Secretary.
Carried 5-0-0

Mr. Remian said that he would like the position of Chair to rotate from now on because it would make for a better Board. Mr. Ellis suggested the by-laws be changed to have the chair rotate biannually.

ACTION: Mr. Cobey made a motion, seconded by Mrs. Kalloch, to accept the slate as nominated.
Carried 5-0-0

3. Approve the Minutes of 3/5/08: Two minor changes to the minutes presented were requested.

ACTION: Mrs. Kalloch made a motion, seconded by Mr. Muddle, to accept the minutes of the 3/5/08 meeting as corrected.
Carried 5-0-0

4. Correspondence and Communications: The chairman noted the following correspondence: 1) a 3/20/08 letter from the DEP to James Tower, requesting information regarding buffers and building envelopes in relation to the storm water management plan and the restoration of blast spoil on Lot 26; 2) a 3/24/08 letter from Bonnie Miller's attorney, James Katsiaficas, to the PB and the Board of Appeals regarding the proposed boat launch on Lots 85 & 86; 3) a 4/1/08 letter from Mr. Katsiaficas to the PB, opposing approval of the Robbins Mountain Subdivision; 4) a 3/12/08 letter from Patrick Cardon's attorney, James Hopkinson, to the PB, regarding Mr. Cardon's property line.

5. Application for Changes to a Previously Approved Home Application, Map 6, Lot 22-9, Submitted by James Dexter and Dale Mammina: Mr. Dexter stated that he wanted to add 8-1/2' to the width of the house and also split the driveway to accommodate a walkout garage. Mr. Cobey said there would be no way to back cars out of the garage without going into the area of more than 20% slope. Mr. Dexter said the house would be rotated from the location depicted on the plan, allowing for greater width and room to back out. Mr. Remian asked if the driveway to the cottage area would be retained. Mr. Dexter said it would, largely as a pathway, for the immediate future.

Mr. Muddle asked what the PB would be approving for the cottage building and Mr. Remian said that building had already been approved. Mr. Ellis said this application dealt only with the 8-1/2' extension of the house and the split

in the driveway. Mr. Remian noted that the application specified that it would comply with Section 16(E)(3)(a & b) of the Shoreland Zone Ordinance [SZO] and that Sections 16(E)(3)(c-i) had been approved on either a previous application or as part of subdivision approval. Mr. Cobey said he saw no substantive change that would affect previous approval.

ACTION: Mr. Ellis made a motion, seconded by Mr. Remian, for a positive finding of fact on Section 16(E)(3)(a-i).
Carried 5-0-0

ACTION: Mr. Ellis made a motion, seconded by Mr. Remian, to approve the application as submitted.
Carried 5-0-0

6. Application to Build a Guest/Boathouse in the Shoreland Zone, Map 6, Lot 9-9, Submitted by Christopher Bouzaid and Lydia Langston: Chairman Remian stated that the Bouzaid/Langston boathouse was located in the Shoreland Zone and the applicants had done a good job of stating their case and paid their fee. He asked if the septic system was 2-tiered and Mr. Bouzaid answered in the affirmative, saying the leach field was located on adjoining Lot 10.

The chairman said the review would start with Section 15 of the SZO because it had not previously been approved. Mr. Cobey said the structure was accessory to an allowed use and had been approved by the CEO; he did not see why it should come before the Board. Mr. Remian replied that he would rather pass it to the CEO himself, but it required a full review because it would be used as a primary residence for a couple of years. Mr. Bouzaid said the applicants would live on the second floor of the building until their permanent residence was built. Mrs. Kalloch said that meant the building was not accessory for now and Mr. Remian said the SZO table indicated that applied. CEO Bickford said that in order to be an accessory structure it must be accessory to something. Mr. Ellis read aloud the definition of "residential unit" from the ordinance. The Board agreed to a full review since there was no other structure.

Mr. Remian noted that Lot 9-9 had been approved at 6 acres, though it now showed only 3.89 acres above the high water mark. Mr. Ellis said that lots within the SZ had to start at that mark and Mr. Bouzaid said their property taxes had been reduced to reflect that. The chairman said the applicants had stated that the house would meet the less than 20% lot coverage rule when complete. Mr. Cobey said the lot size and frontage would have to be double because there would be more than one structure on the lot. Mr. Remian said the lot met that standard.

ACTION: Mr. Ellis made a motion, seconded by Mr. Cobey, for a positive finding of fact, based on the submittals, on Section 15(A) (Minimum Lot Standards).
Carried 5-0-0

Mr. Cobey asked if there were a vertical elevation for the building. Mr. Bouzaid said the building would be 28' high to the tip and 7' above the flood plain. Mr. Ellis ascertained that the applicants would return to the Board for approval of the principal structure. Mr. Remian said that, based on the total project, it appeared that the total lot coverage, including the driveway, house, parking and guest house, would be 15,490 Sq. Ft., less than 20% of the area.

ACTION: Mr. Ellis made a motion, seconded by Mr. Cobey, for a positive finding of fact on Section 15(B) (Principal and Accessory Structures).
Carried 5-0-0

ACTION: Mr. Ellis made a motion, seconded by Mr. Cobey, that Sections 15(C, D & E) did not apply.
Carried 5-0-0

Mr. Remian commented that the plan met the setbacks and that the driveway area was flat. The driveway base was 12', narrowing to 10', he said.

ACTION: Mr. Cobey made a motion, seconded by Mrs. Kalloch, for a positive finding of fact on Section 15(F) (Parking Area).
Carried 5-0-0

ACTION: Mr. Cobey made a motion, seconded by Mrs. Kalloch, for a positive finding of fact on Section 15(G) (Roads and Driveways).

Carried 5-0-0

ACTION: Mr. Ellis made a motion, seconded by Mr. Cobey, that Section 15(H) did not apply.
Carried 5-0-0

ACTION: Mr. Cobey made a motion, seconded by Mr. Ellis, for a positive finding of fact on Section 15(I) (Storm Water Runoff).
Carried 5-0-0

ACTION: Mr. Cobey made a motion, seconded by Mrs. Kalloch, for a positive finding of fact on Section 15(J) (Septic Waste Disposal).
Carried 5-0-0

ACTION: Mr. Cobey made a motion, seconded by Mrs. Kalloch, that Sections 15 (K, L, M and N) did not apply to this application.
Carried 5-0-0

Mr. Remian noted that the applicant had said he would minimize tree removal, which was reflected on the plan.

ACTION: Mr. Ellis made a motion, seconded by Mr. Cobey, for a positive finding of fact on Section 15(O) (Clearing of Vegetation for Development).
Carried 5-0-0

ACTION: Mr. Cobey made a motion, seconded by Mr. Remian, for a positive finding of fact on Section 15(P) (Erosion and Sedimentation Control).
Carried 4-1-0 (Mr. Cobey voted against)

The chairman asked the CEO if he had found a means of getting the Board around requiring an erosion and sedimentation control plan. Mr. Cobey said he felt the Board should get a written plan because it was required by the SZO. Mr. Remian said the applicants had stated they would follow best management practices. Ms. Langston said she would be willing to write the plan out in detail, but the Board had already voted.

Mr. Remian read aloud the first sentence of Section 15 (Q) (Soils). He said he thought it strange that this burden fell on an applicant for a dwelling structure, rather than on the subdivision developer. The CEO said this should be addressed when the SZO was rewritten.

ACTION: Mr. Cobey made a motion, seconded by Mr. Muddle, for a positive finding of fact on Section 15(Q) (Soils).
Carried 5-0-0

ACTION: Mr. Cobey made a motion, seconded by Mr. Remian, for a positive finding of fact on Section 15 (R) (Water Quality).
Carried 5-0-0

ACTION: Mr. Cobey made a motion, seconded by Ms. Muddle, for a positive finding of fact on Sections 15 (S & T) did not apply to this application.
Carried 5-0-0

ACTION: Mr. Cobey made a motion, seconded by Mrs. Kalloch, for a positive finding of fact on Section 16(E)(3) (a-i) (Administration).
Carried 5-0-0

ACTION: Mr. Ellis made a motion, seconded by Mr. Cobey, to approve the application, based on submissions.
Carried 5-0-0

7. New Business: Mr. Tower asked the chairman for a copy of all correspondence noted at the beginning of the meeting, with the exception of the DEP letter to him. Mr. Remian said they would be ready for him by Friday.

Mr. Ellis said that Mr. Cobey had requested that the PB review a proposed tower ordinance at its workshop the following morning. Mr. Ellis said that workshop notice had not included mention of the tower ordinance and he felt it would be inappropriate to discuss at that time, especially at a workshop. Mr. Ellis stated that there was considerable interest and differences of opinion on the tower ordinance, warranting fair notice. He felt the procedure should follow the recommendation of the Select Board that it come before the town by petition initiative. He said the chair of the Ordinance Committee had asked that it be placed on the agenda for the next Select Board meeting and be duly noted on the agenda on the town's website. Mr. Ellis continued that Mr. Cobey had generated the ordinance with little input from the Ordinance Committee and he felt the Select Board was wise to want more input than the four people on the committee who had unanimously supported it. He said the PB should not step in before the Selectmen had a chance to make their wishes known. Mr. Ellis said there should be a consistent procedure so each initiative would be handled the same way.

Mr. Muddle responded that would be misdirecting the process. He said land use was a PB responsibility and only the PB could call for a public hearing once the ordinance was drafted. He felt the Board should spend time in a work session getting up to speed on the tower ordinance. Mr. Muddle added that work sessions were open to the public and no decisions were made there.

Mr. Cobey said that, as a school board member, he made no apologies for moving quickly on something happening next to the school. However, he agreed that it should not be reviewed at tomorrow morning's meeting. Mr. Remian asked if the notice for the workshop said it was specifically for the SZO and Mr. Muddle said it did. Mr. Ellis said the PB should not circumvent the Select Board's decision to put it on their next agenda. Mr. Remian said the Ordinance Committee was obligated to circulate anything it approved to other boards. Mr. Ellis said this proposed ordinance was being railroaded.

James Tower said he attended the Select Board meeting and could substantiate Mr. Ellis' point. Mr. Muddle agreed that it should be posted before being discussed by the PB. Chet Knowles said he did not recall the Selectmen asking for it to be on their next agenda. Mr. Ellis read from the minutes of that meeting that it would be put on the next agenda. Mr. Remian responded that Bob Worthing had said he expected a petition to bring the ordinance forward to the PB. Mr. Muddle said this was a very confusing and worrisome issue to a lot of people and the Board ought to be very sure before proceeding.

8. Adjournment:

ACTION: Mr. Muddle made a motion, seconded by Mr. Cobey, to adjourn at 7:23 P.M.
Carried 5-0-0

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Respectfully submitted,

Deborah E. Sealey
Recording Secretary